

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**CITY OF WAPELLO
NPDES Permit #5879001**

**ADMINISTRATIVE CONSENT
ORDER
NO. 2007-WW-17**

**TO: Roger Noble
Mayor
PO Box 246
Wapello IA 52653**

I. SUMMARY

This administrative consent order (Order) is entered into between the City of Wapello (Wapello) and the Iowa Department of Natural Resources (Department) for the purpose of establishing an enforceable schedule for implementing a Long Term Control Plan (LTCP), and for eliminating and reducing the effects of combined sewer overflows and sanitary sewer overflows. Pursuant to this Order, Wapello shall comply with the compliance schedule contained herein.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Paul Brandt
IDNR Field Office #6
1023 W. Madison
Washington, IA 52353
Ph: 319-653-2155

Relating to this Order:

Jon C. Tack
Legal Services Bureau
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph. 515-281-8889

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued pursuant thereto; and Iowa Code section 455B.109 and chapter 567 Iowa Administrative Code (IAC) 10 which authorize the Director to assess administrative penalties.

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III. STATEMENT OF FACTS

1. Wapello is located on the Iowa River in Louisa County and has a population of approximately 2100 people. Wapello operates a wastewater treatment plant and a combined sewer collection system pursuant to NPDES Permit #5879001. The use of a combined sewer collection system results in the discharge of sewage from two points when precipitation events cause flows greater than the capacity of the collection system. These discharge points are referred to as combined sewer overflows (CSOs). Wapello is in the process of separating sanitary sewer collection systems from storm water collection systems in order to eliminate CSOs. Separation work began in the early 1990's. Approximately 2/3 of the separation work has been completed as of 2006. The two remaining CSOs are located at the Vernon Street lift station and the Van Buren Street lift station. These CSOs discharge to the Iowa River.

2. On February 13, 2001, NPDES Permit #5879001 expired. The permit has not been renewed and Wapello continues to operate pursuant to the terms of the expired permit.

3. On January 10, 2006, the U.S. Environmental Protection Agency (EPA) conducted a combined sewer overflow inspection of the Wapello combined sewer collection system. Violations noted included the need to implement the required Nine Minimum Controls (NMCS) including a public warning system at CSO #003, the failure to meet permit discharge limits, the lack of an accurate facility description in the existing permit, and the lack of necessary documentation of showing proper operation and maintenance of the sewer collection system.

4. On July 5, 2006, the Department conducted an inspection of the Wapello wastewater treatment facility. The inspection disclosed violations of the facility's CBOD limits in 2005.

5. On March 9, 2007, the Department conducted an inspection of the Wapello combined sewer collection system. On April 6, 2007, a letter was sent to Wapello detailing the requirement to implement the NMCs required by federal law during the period prior to the completion of the separation of storm sewer collection systems from sanitary sewer collection systems.

6. On June 13, 2007, the Department met with Wapello. Issues discussed included the likelihood that treatment facility upgrades will be required to meet the anticipated limits in a new NPDES permit, the need to develop and implement the NMCs, and the need to develop a Long Term Control Plan (LTCP) to complete separation of the sewer systems. The Department requested that Wapello propose a schedule for completion of the sewer separation work.

7. On September 19, 2007, Wapello submitted an Interim LTCP.

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IV. CONCLUSIONS OF LAW

The Department and Wapello agree that the following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. CSOs constitute prohibited discharges.

2. Iowa Code section 455B.173(3) authorizes and requires the Environmental Protection Commission to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems.

3. The U.S. EPA promulgated the Combined Sewer Overflow Control Policy (CSOCP), U.S. EPA on April 19, 1994, and this policy was incorporated into the Clean Water Act (CWA) at 33 U.S.C. 1342(q)(1). The CSOCP requires permittees with combined sewer systems (CSSs) that have CSOs to immediately undertake a process to accurately characterize their sewer systems, to demonstrate implementation of the NMCs, and to develop a long-term CSO control plan (the LTCP). The NMCs are:

1. Proper operation and regular maintenance programs for the sewer system and the CSOs;
2. Maximum use of the collection system for storage;
3. Review and modification of pretreatment requirements to assure CSO impacts are minimized;
4. Maximization of flow to the POTW for treatment;
5. Prohibition of CSOs during dry weather;
6. Control of solid and floatable materials in CSOs;
7. Pollution prevention;
8. Public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts; and
9. Monitoring to effectively characterize CSO impacts and the efficacy of CSO controls.

4. The CSOCP requires the State of Iowa to incorporate the LTCP in an enforceable mechanism to ensure compliance. The execution of a consent administrative order between the Department and Wapello is necessary for compliance with the CSOCP.

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V. ORDER

The Department and Wapello hereby agree, and Wapello is hereby ordered to comply with the following schedule.

1. Wapello shall fully implement the NMCs.
2. By July 1, 2008, Wapello shall submit a final LTCP.
3. By January 1, 2009, Wapello shall begin construction to separate all combined sewer systems that are tributary to the Van Buren Street Lift Station (CSO #2).
4. From July 1, 2010 until all CSOs are eliminated from the Wapello sanitary sewer collection system, Wapello shall submit yearly progress reports on CSO projects ongoing in Wapello, including any projects not governed by the terms of this Order. Reports shall be submitted by July 1st of each year beginning in 2010.
5. By November 1, 2013, Wapello shall complete the separation of all sewer collection systems that are tributary to the Van Buren Street Lift Station.
6. By September 1, 2014, Wapello shall eliminate CSO #2 at the Van Buren Street Lift Station.
7. By January 1, 2015, Wapello shall award a contract for the separation of all combined sewer systems that are tributary to the Vernon Street Lift Station (CSO #3).
8. By November 1, 2019, Wapello shall complete the separation of all sewer collection systems that are tributary to the Vernon Street Lift Station.
9. By September 1, 2020, Wapello shall eliminate CSO #3 at the Vernon Street Lift Station.

VI. AMMENDMENT

The Department and Wapello acknowledge and agree that the terms and conditions set forth in this Order are based upon all conditions known and information available as of the date of issuance of this Order. If during the implementation of this Order, new information becomes available showing that the scope and complexity of the construction work required pursuant to Section V. will be significantly more extensive than originally anticipated, and that it will be technically impracticable to meet the completion date despite use of best efforts by Wapello, then Wapello may request and the Department in good faith consider granting an extension of time to complete the required

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construction work. Any such request by Wapello for an extension of time shall be in writing and shall set forth in detail the new information that is the basis for the extension, and the reasons that Wapello believes it is technically impracticable, despite the use of best efforts, to meet the original completion date. In any request for the amendment of this Order, Wapello shall also propose and justify an alternative completion date. Any extension of time that is agreed to by the parties shall be formalized through the issuance of an amendment to this Order.

Wapello may also request an amendment to this Order based upon any changes in applicable state or federal statutes and regulations to the extent such changes materially alter the basis for the requirements set forth herein or otherwise render the requirements of this Order unnecessary or contrary to law.

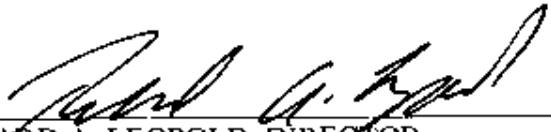
VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175(1) and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Wapello. By signature to this Order, all rights to appeal this Order are waived.

VIII. NONCOMPLIANCE

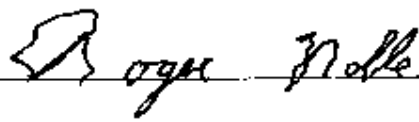
Compliance with sections V. Order of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

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RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 19 day
October, 2007



CITY OF WAPELLO

Dated this 8 day
Oct., 2007

NPDES #5879001-; Field Office #6; Jon Tack; EPA; Wayne Farrand; Tom Atkinson; LB.2.b